



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Gary A. KNEEZEL

Group Art Unit: 2853

Application No.: 10/699,789

Examiner: J. STEPHENS

Filed: November 4, 2003

Docket No.: 115005

For: SYSTEMS AND METHODS FOR MAKING DEFINED ORIFICE STRUCTURES IN
FLUID EJECTOR HEADS AND DEFINED ORIFICE STRUCTURES

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the March 3, 2005 Restriction Requirement, the period for response being extended by the attached Petition for Extension of Time, Applicant provisionally elects Group II, claims 15-26, with traverse.

The Restriction requirement has failed to meet its burden of proving distinctness as required by MPEP §806.05(f). The Restriction Requirement alleges that Group I and Group II are distinct because the fluid ejector can be made by drilling, lamination, spin coating, and grit blasting. Independent method claims 1 and 8 recite, "forming." The term "forming" is broad enough to encompass each of the Office Action's alleged alternative processes of drilling, lamination, spin coating, and grit blasting. Thus, drilling, lamination, spin coating, and grit blasting cannot reasonably be considered materially different processes.

Furthermore, where method claims 1 and 8 respectively recite "forming by dicing" or "forming by at least dicing," the corresponding device claims 15 and 20 recite "formed by

dicing," and thus exclude the possibility of forming by the Office Action's alleged materially different processes of drilling, lamination, spin coating, and grit blasting.

Because the Office Action has failed to provide a materially different process by which the devices of claims 15-26 may be made the Office Action has failed to meet its burden under MPEP §806.05(f). Accordingly, the Restriction Requirement is improper.

Applicant also respectfully submits that the subject matter of all claims 1-26 is sufficiently related that a thorough search for the subject matter of either Group I or Group II would encompass a search for the subject matter of the remaining claims. Thus, Applicant respectfully submits that the search and examination of the entire application could be made without serious burden. See MPEP §803 which states that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added).

Although, as discussed above, the Office Action has failed to prove that the present application includes distinct inventions, Applicant respectfully submits that the policy of MPEP §803 should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

In view of at least the forgoing, Applicant respectfully requests withdrawal of the Restriction Requirement and prompt consideration and allowance of claims 1-26.

Respectfully submitted,


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JAO:JOC/tea

Attachment:

Petition for Extension of Time w/ Check #167517 (\$450)

Date: June 8, 2005

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